

REPORT TO THE GOVERNOR'S REGULATORY REVIEW TASK FORCE

The South Carolina Department of Agriculture and the South Carolina Agriculture Commission recommendations regarding changes to statutory and regulatory provisions that could provide greater consumer protection, increase agency efficiency, and remove unnecessary regulation and duplication.

June 27, 2013



Hugh E. Weathers, Commissioner

State of South Carolina Department of Agriculture

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Dear Regulatory Task Force Members,

Please find the South Carolina Department of Agriculture's enclosed reports indicating areas where changes or improvements to existing laws and regulations under its authority might benefit the health, safety and welfare of the general public, in addition to allowing our programs to run more efficiently.

Providing consumer protection and increasing agency efficiency are high priority items for this agency. In particular, we are making recommendations that more accurately reflect the abilities and functions of this agency that mesh with the expectations of the general public related to the Department of Agriculture's regulatory responsibilities as a government entity.

Please do not hesitate to contact me or my staff regarding any questions you might have about these proposed improvements to the regulatory language and responsibilities of this Agency as set forth in the current statutes and regulations of the South Carolina Code of Laws.

Sincerely,

A handwritten signature in black ink that reads "Hugh E. Weathers". The signature is written in a cursive, flowing style.

Hugh E. Weathers



The Agriculture Commission of South Carolina

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Dear Regulatory Task Force Members,

Please accept this letter from the South Carolina Agriculture Commission as a response to your request for a report on areas where changes or improvements to existing law and regulations under its authority might benefit the health, safety and welfare of the general public, in addition to allowing our programs to run more efficiently.

We are submitting this report in conjunction with the South Carolina Department of Agriculture's report because we work very closely with this agency and depend upon their staff and personnel to handle most of the day to day program operations required under the Agriculture Commissions statutory responsibilities.

Providing farmers and the general public with information and programs that support Agriculture production in South Carolina is a primary goal of this Commission. Specifically, the SC Agriculture Commission oversees various farm commodity groups and boards that have established marketing orders and bylaws for the Boards governing the expenditure of the assessments that are collected from the commodity at issue.

Currently, regulations promulgated by the Agriculture Commission are outdated and no longer provide current information to farmers or interested members of the public related to marketing orders for specific commodities grown in South Carolina. In fact, some commodities that previously had marketing orders and active board members no longer exist. The commodity groups are no longer required to post their marketing orders and bylaws in the regulations.

Therefore, it is the recommendation of the SC Agriculture Commission that Article 1, Regulations 5- 1 thru 5-189 be repealed and removed. This recommendation is made in light of the fact that many of the currently operating commodity boards that still actively manage and use their existing marketing orders maintain their own websites and are also part of National Boards where they provide the most up to date information to farmers and consumers who are interested in this type of information.

Please do not hesitate to contact me, other Commission members or staff at the SC Department of Agriculture regarding any questions you might have about these proposed improvements to the regulatory language and responsibilities of this Commission and its programs as set forth in the current statutes and regulations of the South Carolina Code of Laws.

On behalf of the SC Agriculture Commission, I thank you for the work you are doing.

Sincerely,

A handwritten signature in cursive script that reads "Frances H. Price".

Frances H. Price,
Chair

Regulation of Petroleum Products in South Carolina

The S.C. Department of Agriculture regulates the sale of petroleum products. Most people are aware of this and notice the inspection stickers that are placed on the gas pumps indicating the last inspection date. There is also a telephone number listed on that sticker and the Department receives many phone calls from the public. Most of the consumer complaints that we receive on this phone line are actually related to the price of gasoline, which is not something that we regulate or have control over.

With regard to any valid complaints the agency receives, our inspectors respond quickly, investigating claims of inaccuracies of pump volume and claims of adulterated gasoline products. Inspectors can check the volume accuracy at the pump and they collect official samples for laboratory analysis regarding complaints involving gasoline adulteration.

Recently, the Department has identified the need to update its petroleum law and is in the process of proposing legislation in the General Assembly. These proposed changes would streamline the registration process (no fees being charged) to assist in product traceback situations and to ensure that all retail gas facilities have been identified and are being properly inspected throughout the state. These proposed changes have been vetted by the Petroleum Marketers and the Petroleum Manufacturers who are regulated by this agency, and they support these proposed changes to the statute.

In addition, we are working with the State Fire Marshall's office regarding these proposed amendments and assisting them with clarification of potentially confusing language that improperly directs authority to our agency on certain matters, rather than the State Fire Marshall's office.

It is this agency's intent to have these proposed legislative changes prefiled for the 2014 Legislative Session.

Regulation of Commodity Warehouses in South Carolina

This agency licenses and regulates warehouses that store agriculture commodities such as cotton and grain. Based upon input from licensed warehousemen, it is recommended that this agency change from a 90 day inspection period to a 6 month inspection period.

This agency is in agreement with this proposed change because it believes that a six month inspection period would still allow for accurate inspection of the commodities and assessment of storage capacity, etc., but would be easier on the warehousemen, especially. This change would require a statutory amendment to S.C. Code § 39-22-130.

Regulation of Hazardous Substances in South Carolina

When this law was first enacted in the 1960s, it was basically an unfunded mandate to regulate an important area of concern to the public related to hazardous substances, including highly flammable and toxic substances. Regulation of hazardous materials can require extensive laboratory analysis and although this Agency was initially entrusted with this authority through the provisions of the Hazardous Substances Act in SC Code Ann. §§ 23-39-10 et al, the funding to purchase and/or build the requisite laboratory facility that would be necessary to carry out the regulatory analysis was never provided.

In the meanwhile, other agencies such as DHEC and the State Fire Marshall also regulate hazardous and toxic materials, radioactive materials, as well as flammable combustible gases and liquids. Local governments have also developed the capacity to handle and manage certain aspects of hazardous waste disposal programs in their jurisdiction as well. Over the years their staff and laboratory facilities have grown and advanced to encompass regulation of the hazardous materials that are set forth in S.C. Code § 23-39-10 et al.

In addition, many hazardous substances are also regulated by the Federal EPA agency under laws such as the Federal Insecticide, Fungicide and Rodenticide Act.

In light of the overlap in regulation and authority over hazardous materials by both DHEC and the State Fire Marshall's office, this agency recommends that S.C. Code Ann. §§ 23-39-10 et al, should be repealed as an unnecessary layer of regulation by a third Agency at this point.

Regulation of Manufactured Food and Cosmetic Products in South Carolina

This law was recently updated in 2010 to be more efficient in identifying food manufactures in SC and to be updated in food sanitation practices and requirements. Furthermore, in response to consumer demand and interest in startup bakery operations and new food entrepreneurs, an exemption was created in 2012 for home bakers who sell less than \$15,000/annually. This is commonly called the Cottage Food law exemption.

Based on these recent statutory updates, the agency feels that it is being responsive to consumer interests and providing flexible, yet responsible consumer protection services related to manufactured food products in South Carolina.

Currently the agency is in the process of implementing cheese and butter regulations pursuant to multiple requests and inquiries from cheese manufacturers looking for guidance on production of local cheese products. The regulations have been through two series of public comment periods and are currently awaiting approval from the General Assembly.

Regarding salvage operations, based upon the advancement of food safety practices and regulations, it seems duplicative to require Salvage operations to be regulated separately or in addition to the current Registration Verification Permit process that is currently in place for foods that are manufactured and/or

labeled and distributed in South Carolina. Therefore, it is the recommendation of this agency, that statutory provisions for Salvage operations, S.C. Code Regulations 5-360 thru 5-373 be repealed, so that all salvage operators, as well as their facilities will adhere to the same requirements and permitting process as all other food manufacturing and distribution operations. There are no fees associated with this registration process and program.

Over time, this agency has primarily seen and been focused on sanitation and protection of manufactured food products. Currently the law also provides for oversight of cosmetic products that are manufactured for distribution only within the State. All cosmetic products manufactured for distribution within South Carolina and other states are regulated by the FDA, and those federal provisions preempt the current state provisions. The reality is that almost all cosmetic products manufactured in this state are in fact regulated by the FDA and the provision of the State law and cosmetic inspection program is basically non-existent at this time. Therefore it is the recommendation of this agency, that statutory provisions S.C. Code §§39-25-140 thru 150 be repealed to make it less confusing for cosmetic manufacturers. They would only have to comply with FDA regulation of cosmetic products manufactured in SC.

Regulation of Cornmeal , Grits and Rice in South Carolina

S.C. Code Ann. §§ 39-29-10 et al., refers to the regulation of cornmeal and grit products. Historically, these products required accurate labeling and addition of certain enrichment items to ensure that people were receiving high quality cornmeal and grits for human consumption. These laws have been in South Carolina since at least the 1940s.

As food safety and food quality regulation has improved over time, the laws have changed and are now universally required for all food products manufactured in South Carolina under the comprehensive SC Food & Cosmetic Act. Products that go across state lines are also regulated by the FDA.

Because the Food & Cosmetic Act is in place and because it actually provides even more detail about sanitation practices and requirements that food processors must follow, especially with regard to labeling, it is our recommendation that S.C. Code Ann. §§ 39-29-10 et al., be repealed.

Following, this same line of reasoning regarding the comprehensive nature of the SC Food and Cosmetic Act, the same recommendation is made for S.C. Code Ann. §§ 39-31-10 et al., which regulates rice products manufactured in South Carolina; repeal S.C. Code Ann. §§ 39-31-10 et al.

Commercial Production of Animal Feed Products in South Carolina

This is an area of the law that the Agency has identified as being in need of an update, especially with regard to pet food and animal food safety and sanitation practices and standards. Over time, the ability to monitor and detect, much like human food safety and sanitation issues, has increase greatly. In

addition, we have seen more and more disease and illness outbreaks resulting from poor sanitation practices resulting in sickness and event death of pets consuming the adulterated food products.

This agency has been in the process of updating its statutory authority to reflect these changes in sanitation monitoring and setting forth standards of quality. Along with these proposed changes, there has been discussion among industry professionals about the appropriate way to fund and support this agency that provides these services (through laboratory analysis and inspections). Currently this agency charges a per label registration fee for every commercial animal feed product sold in South Carolina. (This does not include custom blends). There has been discussion that perhaps the agency should also, or in lieu of the per label fee, charge a tonnage fee based on the amount of product sold and distributed in the state. Research of commercial feed regulatory programs in other states show that both methods are used. The dialogue between the agency and industry officials is continuing and the goal is to have suitable proposed legislative amendments to be proposed in 2014 that are agreeable to all parties providing consumer protection to pets and pet owners, and a fee structure that is supported by animal feed industry officials.